

SENATE BILL No. 322

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1-17.

Synopsis: Local spending on criminal defense. Provides that a county, municipality, township, or municipal corporation may not pay the legal expenses of an employee or officer to defend against a criminal action, certain civil actions, or a proceeding in which the employee or officer is charged with an infraction. Provides certain exceptions.

Effective: July 1, 2005.

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January 6, 2005, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 322

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-1-17 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]:
4 **Chapter 17. Defense Expenses for Unit and Municipal**
5 **Corporation Officers and Employees**
6 **Sec. 1. As used in this chapter, "criminal action" means a**
7 **prosecution against an individual alleging the commission of a**
8 **felony or misdemeanor.**
9 **Sec. 2. Except as provided in section 3 of this chapter, a unit or**
10 **municipal corporation may not pay the legal expenses incurred by**
11 **an officer or employee of the unit or the municipal corporation:**
12 **(1) in defending against:**
13 **(A) a criminal action;**
14 **(B) a civil action based on a criminal action; or**
15 **(C) a proceeding to enforce an ordinance or a statute**
16 **defining an infraction; or**
17 **(2) who is the target of a grand jury investigation, if the scope**



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of the investigation includes a claim that the officer or employee committed a criminal act.

Sec. 3. (a) An officer or employee of a unit or municipal corporation who is charged with:

(1) a crime; or

(2) an infraction;

relating to that individual's acts as an officer or employee may apply to the fiscal body of the unit or municipal corporation for reimbursement of reasonable expenses incurred in the officer's or employee's defense against those charges, if all charges have been dismissed or the officer or employee has been found not guilty of the charges.

(b) An officer or employee of a unit or municipal corporation who is the target of a grand jury investigation relating to that individual's acts as an officer or employee may apply to the fiscal body of the unit or municipal corporation for reimbursement of reasonable expenses incurred by the officer or employee resulting from a grand jury investigation, if the grand jury fails to indict the officer or employee.

(c) An officer or employee of a unit or municipal corporation who is the defendant in a civil action based on a criminal action that relates to that individual's acts as an officer or employee may apply to the fiscal body of the unit or municipal corporation for reimbursement of reasonable expenses incurred in the officer's or employee's defense in the civil action if:

(1) either:

(A) all claims that formed the basis of the civil action have been dismissed; or

(B) the officer or employee has been found not guilty of the criminal charges that formed the basis of the civil action; and

(2) the officer or employee prevailed in the civil action.

Sec. 4. The fiscal body of a unit or municipal corporation may:

(1) act on an application under section 3 of this chapter without a hearing; and

(2) require an officer or an employee seeking reimbursement under this chapter to:

(A) answer questions under oath; or

(B) provide information or documents concerning the case or investigation for which the officer or employee is seeking reimbursement.

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